

TITLE 329 SOLID WASTE MANAGEMENT BOARD

IDEM'S SUGGESTED CHANGES TO PROPOSED NEW RULES CONCERNING REMOVAL OF MERCURY SWITCHES FROM END OF LIFE VEHICLES AT 329 IAC 11.5

LSA Document #05-250

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a)(2)) and incorporated into the printed version published in the Indiana Register on February 21, 2007 (DIN: 20070221-IR-329050250PRA) have been made in the version of this rule presented to the board for final adoption. These changes are NOT listed in this list of suggested changes.

Page references are to the proposed rule as published in the Indiana Register.

- Page 5 329 IAC 11.5-1-4(a)**
Remove "Any owner or operator of".
Remove "business in Indiana or any other person in Indiana that" and insert "**who**".
Remove "is required to" and insert "**shall**".
- Page 5 329 IAC 11.5-1-4(a)(3)**
Remove "convenience" and insert "**mercury**" in four (4) places.
- Page 5 329 IAC 11.5-1-4(a)(3)(A)(v)**
Following "ABS" remove "switches" and insert "**G-force sensors**".
- Page 5 329 IAC 11.5-1-4(a)(3)(B)**
Amend clause (B) to read as follows:
(B) The approximate percentage of the vehicles processed by the motor vehicle recycler that have mercury switches during the reporting calendar year.
- Page 5 329 IAC 11.5-1-4(b)**
Remove "owner or operator of a".
Remove "business in Indiana or any other person in Indiana that" and insert "**who**".
- Page 5 329 IAC 11.5-1-4(c)**
Remove "owner or operator of a".
Remove "business in Indiana or any other person in Indiana that" and insert "**who**".
- Page 6 329 IAC 11.5-1-5**
Amend section 5 to read as follows:
Sec. 5. A motor vehicle recycler may submit electronically any information required by this article in a format acceptable to the commissioner.
- Page 6 329 IAC 11.5-1-6**
Amend section 6 to read as follows:
Sec. 6. (a) A motor vehicle recycler who:
(1) removes mercury switches; and
(2) requests payment for those switches under 329 IAC 11.5-4-1:
may be subject to inspection by the department to verify that only mercury switches and ABS G-force sensors are being sent for processing.

(b) A motor vehicle recycler in Indiana or other person in Indiana who:
(1) intentionally crushes a motor vehicle; and
(2) transfers that vehicle to another person;
shall provide documentation that all mercury switches have been removed from the intentionally crushed motor vehicle and recycled.
- Page 6 329 IAC 11.5-1-7**

Amend section 7 to read as follows:

329 IAC 11.5-1-7 Previously damaged vehicles

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7-5; IC 36-9-30

Sec. 7. Notwithstanding IC 13-20-17.7-5(a), a motor vehicle recycler is not required to remove a mercury switch from a damaged motor vehicle that is so severely damaged when it is received by the motor vehicle recycler that the switch cannot be accessed using hand tools available to the motor vehicle recycler. However, if another person intentionally crushes the motor vehicle prior to sending it to a motor vehicle recycler, that person is a motor vehicle recycler as defined in IC 13-11-2-130.3 and must provide documentation to the person who receives the crushed vehicle that the mercury switches have been removed. *(Solid Waste Management Board; 329 IAC 11.5-1-7)*

Page 7 329 IAC 11.5-2-2

Add a new section 2 to read as follows and redesignate the remaining sections appropriately:

329 IAC 11.5-2-2 “ABS G-force sensor” defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 2. “ABS G-force sensor” means a device containing mercury switches that is installed in a motor vehicle as part of the anti-lock braking system and functions to detect deceleration. This definition includes only those devices that contain mercury. *(Solid Waste Management Board; 329 IAC 11.5-2-2)*

Page 7 329 IAC 11.5-2-3 (previously 329 IAC 11.5-2-2)

Amend the section to read as follows:

Sec. 3. “Container” means the collection device provided to motor vehicle recyclers by the automobile manufacturers under the ELVS mercury minimization plan that complies with the universal waste rules at 329 IAC 3.1-16.

Page 7 329 IAC 11.5-2-4

Add a new section 4 to read as follows and redesignate the remaining sections appropriately:

329 IAC 11.5-2-4 “ELVS mercury minimization plan” defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3; IC 13-20-17.7-7

Affected: IC 13-20-17.7; IC 36-9-30

Sec. 4. The “ELVS mercury minimization plan” means the Mercury Minimization Plan dated September 27, 2006 that was submitted on behalf of motor vehicle manufacturers by the End of Life Vehicle Solutions Corporation (ELVS) under IC 13-20-17.7-1 and approved by the commissioner under IC 13-20-17.7-4. *(Solid Waste Management Board; 329 IAC 11.5-2-4)*

Page 7 329 IAC 11.5-2-5

Add a new section 5 to read as follows and redesignate the remaining sections appropriately:

329 IAC 11.5-2-5 “End of life vehicle” defined

Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3

Affected: IC 13-11-2-66.9; IC 13-20; IC 36-9-30

Sec. 5. "End of life vehicle" has the meaning set forth at IC 13-11-2-66.9.
(Solid Waste Management Board; 329 IAC 11.5-2-5)

Page 7 329 IAC 11.5-2-6
Add a new section 6 to read as follows and redesignate the remaining sections appropriately:

329 IAC 11.5-2-6 "Mercury switch" defined
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-11-2-128.8; IC 13-20; IC 36-9-30

Sec. 6. "Mercury switch" has the meaning set forth in IC 13-11-2-128.8. (Solid Waste Management Board; 329 IAC 11.5-2-6)

Page 7 329 IAC 11.5-3
Amend Rule 3 to read as follows:
Rule 3. ABS G-Force Sensor Allowance

329 IAC 11.5-3-1 ABS G-force sensor allowance
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20-17.7; IC 36-9-30

Sec. 1. ABS G-force sensors may be removed, collected, and sent for processing with mercury switches and payment requested under 329 IAC 11.5-5-1. (Solid Waste Management Board; 329 IAC 11.5-3-1)

Pages 7-8 329 IAC 11.5-4-1
Amend section 1 to read as follows:
329 IAC 11.5-4-1 Mercury switch removal, storage, and disposal requirements
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 13-20-17.7; IC 36-9-30

Sec. 1. (a) Motor vehicle recyclers must remove and collect mercury switches and may collect ABS G-force sensors from end of life vehicles in accordance with the ELVS mercury minimization plan as required by IC 13-20-17.7-5(a).

(b) Any other person in Indiana who removes mercury switches or ABS G-force sensors from end of life vehicles must do so in accordance with this article.

(c) Mercury switches and ABS G-force sensors must be stored in the container provided under the ELVS mercury minimization plan.

(d) Each container must contain not more than four hundred fifty (450) mercury switches.

(e) A motor vehicle recycler who:
(1) uses the container provided under the ELVS mercury minimization plan to store and ship mercury switches, and
(2) follows the instructions provided with the container;
is considered to be in compliance with the universal waste rules in 329 IAC 3.1-16. (Solid Waste Management Board; 329 IAC 11.5-4-1)

Page 8 329 IAC 11.5-5-1
Amend section 1 to read as follows:
329 IAC 11.5-5-1 Payment procedure
Authority: IC 13-14-8-7; IC 13-15; IC 13-19-3
Affected: IC 9-22-4; IC 13-20; IC 36-9-30

Sec. 1. (a) A motor vehicle recycler or any other person who removes mercury switches from end of life vehicles may submit a request to the department for reimbursement under this section. When requesting reimbursement, the following information must be submitted to the department:

- (1) A list of the make, model, and year of each vehicle that had mercury switches or ABS G-force sensors removed.**
- (2) The number of mercury switches or ABS G-force sensors taken from that vehicle.**
- (3) The facility's salvage motor vehicle business license number issued by the Indiana bureau of motor vehicles.**
- (4) The number of:**
 - (A) mercury switches; and**
 - (B) ABS G-force sensors;****removed, collected, and transported to the mercury processor.**

(b) A motor vehicle recycler or any other person who removes mercury switches from end of life vehicles and requests reimbursement must sign an affidavit as part of the submitted information stating the following:

- (1) All mercury switches and ABS G-force sensors that were removed and sent for processing contained mercury.**
- (2) All information submitted is true and accurate.**

(c) Based on the submitted information, the department will pay:

- (1) three dollars (\$3) for each mercury switch; and**
- (2) five dollars (\$5) for each ABS G-force sensor;**

to the extent the money is available from the state solid waste management fund.

(d) It is a violation of this article to submit a request for reimbursement for convenience switches and ABS switches that do not contain mercury. (*Solid Waste Management Board; 329 IAC 11.5-5-1*)

2a.